

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA,

ORDER

-against-

OLEG KAM,

10 CR 875 (RJD) (RLM)

Defendant.

-----X

DEARIE, District Judge.

Defendant seeks the release of funds that were seized pursuant to warrants upon findings of probable cause that they were traceable to defendant's fraudulent Medicare reimbursement claims. In addition, defendant requests the release of funds held in escrow representing payments from both Medicare and private insurers. By Report and Recommendation pursuant to 28 U.S.C. § 636, submitted March 18, 2011, Magistrate Judge Mann recommends denying defendant's request for release of the funds restrained pursuant to the seizure warrants and granting his request for release of the funds in the escrow account from non-Medicare sources. Magistrate Judge Mann also recommends granting the government's request for a protective order with respect to the escrow funds derived from Medicare payments. Plaintiff filed objections dated April 4, 2011.

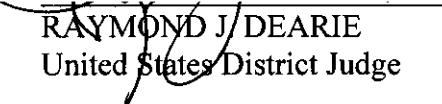
Upon its de novo review, the Court agrees with Magistrate Judge Mann's conclusion that defendant has failed to make even a minimal factual showing that the restrained funds in the seized accounts are not traceable to the Medicare fraud, and he is not entitled to a hearing. The Court further agrees that the government has sufficiently demonstrated, and defendant has not effectively challenged, that the Medicare reimbursements held in the escrow account are traceable to the fraud. Furthermore, despite defendant's assertions, at this point in the discovery

process, the government is certainly in no better position than defendant to further identify specific bills and payments as proper or improper. Accordingly, the Report and Recommendation is adopted without qualification.

SO ORDERED.

Dated: Brooklyn, New York
July 21, 2011

s/ Judge Raymond J. Dearie


RAYMOND J DEARIE
United States District Judge